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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,352	03/25/2004	Glen Michael Falconer		2731

7590 07/06/2006
Glen Falconer
325 Washington Ave. So.
Kent, WA 98032

EXAMINER

MORAN, KATHERINE M

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 07/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/811,352	Applicant(s) FALCONER, GLEN MICHAEL	
	Examiner Katherine Moran	Art Unit 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 2-5,9,10 and 12-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,6-8 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of claims 1, 3, 6-9, 11, and 22 in the reply filed on 4/26/06 is acknowledged. However, the Examiner disagrees with Applicant's submission that claims 1, 3, 6-9, 11 and 22 are associated with the elected Species II of Figures 3-8. The Examiner's opinion is that claims 1, 6-8, and 11 read upon the elected species and an examination on the merits follows. Claims 3 and 22 are method claims which include structure and associated steps that are patentably distinct from the species of claims 1, 6-8, and 11. Also, claim 9 recites an embodiment represented in Figures 21 a-j. Claims 2-5, 9, 10, and 12-23 are withdrawn.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the optional adhesively attached abrasion pad of claim 1 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet,

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and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claim 1 is objected to because of the following informalities: line 17: delete "fictional" and insert --frictional--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1 and 6-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites at least one "optional" adhesively attached abrasion pad. However, if the pad is optional, it is not clear if the pad is being positively recited in combination with the pad. Claims 6 and 7 recite that the planar member is fabricated of any suitable material dictated by application. However, an

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apparatus claim should recite the structural make-up of the invention since the intended use or function does not carry patentable weight as long as the prior art is capable of performing the intended use or function. Also, the phrase "for example" is indefinite because the scope of the claim is unclear.

Information Disclosure Statement

6. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 6-8, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson (U.S. 5,511,998). Johnson discloses the invention as claimed. Johnson teaches a hand tool 10 which could be used to manipulate fluid mass and multitask secondary matter, comprising an irregularly shaped planar member 11 encompassing a

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plurality of irregularly shaped apertures 22-24 which provide an irregularly shaped, ergonomically correct gripping region integrally formed therebetween and within the planar member. The tool further includes at least one infinitely adjustable releasable hand securement member 30,31. The members 30,31 are formed from rubber, thus making them infinitely adjustable. The tool 10 has at least one irregularly shaped ergonomically correct aperture 20a, 20b bifurcating the planar member's peripheral edge, with the planar member 11 bisecting the hand upon engagement therein. An optional adhesively attached pad may be provided on the gripping region. Johnson's member is fabricated of buoyant plastic material, but may be fabricated from any material dictated by the application, environment, or use preference. Regarding claim 11, opposing sides of the member taper to a blunt edge at the bottom of the planar member near the hand's entry area.

Conclusion

9. The prior art made of record on the attached PTO-892, and not relied upon, is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications should be directed to Primary Examiner Katherine Moran at (571) 272-4990. The examiner can be reached on Monday-Thursday from 8:30 am to 6:00 pm, and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch, may be reached at (571) 272-4996. The official and after final fax number for the organization where this application is assigned is (571) 273-8300.

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General information regarding this application may be obtained by contacting the Group Receptionist at (571) 272-3700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'K Moran', with a long horizontal flourish extending to the right.

Katherine Moran

Primary Examiner, AU 3765

Kmm
June 29, 2006